

ATTENDANCE / FILE NOTE

ATTENDING: **MARY BETH RANDELL**

RE: AGNES

FILE REF: 6040

DATE: 18 OCTOBER 2002

DS received a duty call regarding the above lady. Mary Beth stated that Agnes was resident at a residential home and was in the advanced stages of dementia. She had been assessed by three people over the last year, two of whom said that she needed nursing care. She stated that her son resists nursing care and there has been a long legal history to it.

Mary Beth stated that Social Services were taking advice from Jenny Alexander in this respect. She stated that Peter Shakespeare had asked her to 'phone Legal as a result of recent developments.

Mary Beth stated that the GP visited yesterday and has stated categorically that Agnes needs a nursing home within a couple of days and she is terminal. This could be either a couple of days or a couple of months. The GP spoke to the son who has refused to allow Agnes to move to nursing accommodation. Mary Beth stated that she had had a meeting with Peter Shakespeare regarding this morning, the conclusion being that Agnes needs nursing home care with a special needs unit.

Mary Beth stated that the question is, can we move Agnes and where would be stand legally if we did so against the son's consent?

Mary Beth stated that the son is Agnes's nearest relative.

DS advised that there would be powers to remove Agnes under Guardianship, although this would require the son to consent to Guardianship. DS stated that Guardianship required consent of an approved Social Worker and two doctors. This was usually a GP and psycho-geriatrician and the nearest relative. DS stated that the Local Authority could apply to discharge the nearest relative if he was acting unreasonably, under Section 29 (3) (C) of the Mental Health Act.

DS stated that the power under guardianship was the ability to move Agnes to a nursing home.

DS stated that Social Services should consider guardianship as a means of progressing the matter and in doing so Social Services should speak to the GP and psycho-geriatrician and talk

to an approved Social Worker with a view to their views in relation to guardianship. If a confirmation was received that guardianship was appropriate (DS informing Mary Beth that dementia could amount to a mental illness under the Mental Health Act), then having obtained the views of the approved Social Worker, GP and psycho-geriatrician, Social Services should inform the son that the Local Authority were considering guardianship and ask him to consent to the order being made, he should be informed of the consequences for Agnes should he refuse to give consent. He should also be informed that if he does refuse, the Authority will consider applying to the Ipswich County Court for an order under Section 29 of the Act to displace him as nearest relative, because of his unreasonable behaviour.

Alternatively, Social Services could obtain his consent to Agnes moving to the nursing home, which would amount to the same thing.

DS suggested that Social Services put a time limit upon his consent. Such a time limit to be dictated by the needs of the patient. DS suggested that this may be Monday - 21 October 2002 - and Mary Beth agreed.

DS stated the significance of informing the son of the Local Authority's intention in this respect and the consequences to Agnes if the consent was not forthcoming would be to establish unreasonableness on behalf of the son and thereby confirm the grounds upon which displacement could be achieved.

DS agreed to ensure that the attendance note of the telephone conversation was sent to Peter Shakespeare that day i.e. 18 October and a copy would be forwarded to David White and Jenny Alexander for either of those lawyers to pick up on Monday.

DS stated that if Agnes's condition deteriorated to such an extent that she did require urgent and necessary medical treatment, then the doctors would probably have power under their common law power of protecting and preserving life and limb to move Agnes to a nursing, or other suitable, accommodation. Mary Beth confirmed that she was aware of this position.

David Shiner
18.10.02.